

CITY COUNCIL AGENDA

NOVEMBER 29, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:05 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: None.

1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 10)**
The Castellero Middle School Chamber Singers led by Mr. David Finch, Choir Director.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1. CEREMONIAL ITEMS

- 1.1** Presentation of commendations recognizing San José Fire Department and Code Enforcement personnel deployed to assist with rescue, recovery and rebuilding efforts in the Gulf Coast as a result of Hurricane Katrina. (Mayor/Chavez)
Mayor Gonzales and Vice Mayor Chavez recognized and commended the San José Fire Department and Code Enforcement personnel deployed to the Gulf Coast to assist with the victims and aftereffects of Hurricane Katrina.
- 1.2** Presentation of commendation to DHL Express and Teamsters Local 287 in recognition of their contributions and services provided during the Winter Jacket Drive through the Renew Hope Project. (Mayor/Chavez/Campos)
Mayor Gonzales, Vice Mayor Chavez and Council Member Campos recognized and commended DHL Express and the Teamsters Local 287 for their contributions and service to the community.

1. CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to the Camera Cinemas for their 30th Anniversary in Downtown San José. (Mayor/Chavez/Cortese)
Mayor Gonzales, Vice Mayor Chavez and Council Member Cortese recognized the Camera Cinemas on their 30th Anniversary in Downtown San José.
- 1.4 Presentation of a commendation to the Indian Health Center of Santa Clara Valley in recognition of the organization's pivotal role in providing equitable and accessible comprehensive healthcare for the American Indian Community and in honor of November being Native American Heritage Month. (Yeager)
Mayor Gonzales and Council Member Yeager recognized and commended the Indian Health Center of Santa Clara Valley for their vital role in providing accessible healthcare for the American Indian Community and in honor of "Native American Heritage Month".
- 1.5 Presentation of a proclamation declaring the week of November 29 – December 6, 2005 "Family Week" in the City of San José. (Williams)
Mayor Gonzales and Council Member Williams proclaimed the week of November 29, 2005 through December 6, 2005 as "Family Week" in the City of San José.
- 1.6 Presentation of a commendation for Myrtle McKenna in celebration of her 101st birthday on November 30, 2005. (Campos)
(Deferred from 11/15/05 – Item 1.3)
Mayor Gonzales and Council Member Campos recognized Ms. Myrtle McKenna in honor of her 101st birthday.
- 1.7 Presentation of a commendation recognizing the 20th Anniversary of People Acting in Community Together (PACT). (Nguyen)
Mayor Gonzales and Council Member Nguyen recognized and commended People Acting in Community Together on their 20th Anniversary.
- 1.8 Presentation of a commendation to the Almaden Valley Athletic Club and Hospice of the Valley for their joint collaboration in service to the community and their commitment to reach out through numerous events that benefit the District 10 community. (Pyle)
Mayor Gonzales and Council Member Pyle recognized and commended the Almaden Valley Athletic Club and Hospice of the Valley for their service and commitment to the residents of District 10.
- 1.9 Presentation of commendation to History San José recognizing their achievement in preserving San José's History. (Chavez)
Mayor Gonzales and Vice Mayor Chavez recognized and commended History San José for preserving the City of San José's history.
- 1.10 Presentation of a grant to History San José and José Pantoja in celebration and recognition of Founders Day. (Reed)
Mayor Gonzales and Council Member Reed recognized and commended Mr. José Pantoja in celebration of "Founders Day".

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

- (a) Regular minutes of May 3, 2005
- (b) Regular minutes of May 10, 2005
- (c) Regular minutes of May 17, 2005
- (d) Regular minutes of May 24, 2005
- (e) Joint San José/Financing Authority minutes of May 24, 2005

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27606 – Effective as of January 1, 2006 and expiring as of December 31, 2006, providing for a limited exception to Ordinance No. 21663 which precludes second units, and authorizing a temporary second unit pilot program for the issuance of a maximum of 100 second unit permits for new construction during a one-year evaluation period, and which establishes specified requirements pertaining to minimum lot size, maximum unit size and number of bedrooms, parking, development standards, design standards, and applicable fees.

Ordinance No. 27606 adopted.

- (b) ORD. NO. 27607 – Amends sections 20.50.100 and 20.50.110 of, and adding a new section 20.50.120 to chapter 20.50 and amending sections 20.200.897 and 20.200.1065 of chapter 20.200 all of title 20 of the San José Municipal Code to further streamline required permit processes for certain uses to allow for increased amounts of commercial support uses within industrial zoning districts and amending sections 20.90.060, 20.90.210 and 20.90.220 of chapter 20.90 of title 20 of the San José Municipal Code to modify the parking provisions for uses within industrial districts.

Ordinance No. 27607 adopted.

- (c) ORD. NO. 27608 – Rezones certain real property situated on the south side of Umbarger Road, 300 feet westerly of Meadowfaire Drive (370 Umbarger Road) to LI Light Industrial Zoning District. C05-089

Ordinance No. 27608 adopted.

- (d) ORD. NO. 27609 – Prezones certain real property situated on the east side of Grand Avenue approximately 350 feet southerly of Park Avenue and 300 feet northerly of West San Carlo Street (278 Grand Avenue) to CN Commercial Neighborhood Zoning District. C05-092

Ordinance No. 27609 adopted.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances (Cont'd.)

- (e) ORD. NO. 27610 – Rezones certain real property situated on the northwest corner of Old Oakland Road and Rock Avenue (2059 Oakland Road) to A(PD) Planned Development Zoning District. PDC05-022

Ordinance No. 27610 adopted.

- (f) ORD. NO. 27611 – Rezones certain real property situated on the east side of Almaden Road across from the intersection with Malone Road (1992 Almaden Road) to A(PD) Planned Development Zoning District. PDC05-012

Ordinance No. 27611 adopted.

- (g) ORD. NO. 27612 – Rezones certain real property situated at the southeast corner of Fleming Avenue and Morrie Drive (1351 Fleming Avenue) to A(PD) Planned development Zoning District. PDC05-043

Ordinance No. 27612 adopted.

- (h) ORD. NO. 27613 – Rezones certain real property situated on the east side of north Ninth Street between Taylor Street and Jackson Street (680 North 9th Street) to A(PD) Planned Development Zoning District. PDC05-059

Ordinance No. 27613 adopted.

- (i) ORD. NO. 27581 – Rezoning certain real property situated on the northeast corner of Samaritan Drive and Clydelle Avenue (2039 Samaritan Drive) to A (PD) Planned Development Zoning District (PDC05-036) and rescinding City Council action on November 1, 2005 in connection with the rezoning of this same real property.

Ordinance No. 27581 adopted.

2.3 Approval to extend an agreement with the Transportation Security Administration for lease space at the Airport.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an extension of the permit with the U.S. General Services Administration for premises used by the Transportation Security Administration located at both Terminals A and C from November 20, 2005 through June 30, 2006, with annual revenue to the City of \$561,977.

Resolution No. 72977 adopted.

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute up to four amendments to extend the term of the permit for additional one-year terms through June 30, 2010, at an annual rental rate consistent with the annual Airport Rates and Charges Resolution.

CEQA: Resolution Nos. 67380 and 71451, PP 05-166. (Airport)
(Deferred from 11/15/05 – Item 2.4)

Resolution No. 72978 adopted.

2. CONSENT CALENDAR

2.4 Approval to amend an agreement for engineering services at the Water Pollution Control Plant.

Recommendation: Approval of the first amendment to the agreement with CH2M Hill for professional engineering services at the San José/Santa Clara Water Pollution Control Plant, extending the term of the agreement for a period of twenty-four months through December 31, 2007 at no increase in the maximum compensation payable by the City.

CEQA: Not a Project. (Environmental Services)

(Deferred from 11/15/05 – Item 2.9)

Approved.

2.5 Approval to amend agreements with Mexicana Airlines.

Recommendation:

(a) Approval of a second amendment to extend the lease for office and storage space in the hangar building located at 1277 Airport Boulevard with Mexicana Airlines for the period commencing December 15, 2005 to December 31, 2010, subject to termination by either party on thirty day written notice, with annual revenue to the City in the amount of \$1,742.

(b) Approval of a seventh amendment to the Scheduled Airline Operating Agreement and Terminal Building Lease with Compania Mexicana De Aviacion S.A. De C.V. (Mexicana Airlines) to reduce the square footage of certain leased operations and ticket counter space occupied by Mexicana in Terminal C, and to amend provisions regarding the City's Airport Noise Control Program, with annual revenue to the City in the amount of \$292,078.

CEQA: Resolution Nos. 67380 and 71451, PP 05-175 and PP 05-209. (Airport)

Approved.

2.6 Approval of fiscal actions related to the Emergency Response and Preparedness Risk/Threat Assessment.

Recommendation: Adoption of the following appropriation ordinance amendments in the General Fund:

(a) Establish a City-Wide "Emergency Response and Preparedness Risk/Threat Assessment" appropriation to the Office of the City Manager in the amount of \$500,000.

(b) Decrease the Contingency Reserve by \$500,000.

CEQA: Not a Project. (City Manager's Office)

Ordinance No. 27614 adopted.

2. CONSENT CALENDAR

2.7 Approval of fiscal actions related to the Workforce Investment Act Fund.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the Workforce Investment Act Fund:

(a) Increase Rapid Response appropriation by \$207,132.

(b) Increase earned revenue estimate by \$207,132.

CEQA: Not a Project. (Economic Development)

Ordinance No. 27615 adopted.

Resolution No. 72979 adopted.

Disqualified: Williams.

2.8 Approval of various actions related to the HP Pavilion at San José.

Recommendation: Approval of the interior expansion of the Sharks Store at HP Pavilion at San José. CEQA: Resolution No. 60199. (Economic Development)

Approved.

2.9 Approval to reject and re-solicit all bids for the purchase of an Aerial Lift for City Hall.

Recommendation: Approval to reject all bids for the purchase of an Aerial Lift for City Hall and direct the Finance Director to re-solicit the requirement. CEQA: Not a Project. (Finance)

Approved.

2.10 Approval to reject all proposals for the Integrated Cashiering Solution RFP and resolicit proposals.

Recommendation: Approval to reject all proposals received for the Integrated Cashiering Solution RFP, and authorization for the Director of Finance to re-solicit proposals. CEQA: Not a Project. (Finance)

Approved.

2. CONSENT CALENDAR

2.11 Approval of fiscal actions related to the Teacher/First Time Homebuyer Program.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the Home Investment Partnership Program Fund and the Low and Moderate Income Housing Fund :

- (a) In the Home Investment Partnership Program Fund:
 - (1) Increase the Teacher/First Time Homebuyer Loans appropriation by \$2,600,000
 - (2) Increase the earned revenue estimate by \$2,600,000.
- (b) In the Low and Moderate Income Housing Fund:
 - (1) Decrease the Loans, Grants and Site Acquisition appropriation by \$2,600,000.
 - (2) Increase the Ending Fund Balance by \$2,600,000.

CEQA: Not a Project. Council District 5. (Housing/City Manager's Office)

Ordinance No. 27616 adopted.

Resolution No. 72980 adopted.

2.12 Approval of various actions related to grants for the Japantown Historic Resources Survey.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to accept the following grant awards and to negotiate and execute any necessary documents related to the grants:
 - (1) A \$5,000 grant from the National Trust for Historic Preservation (NTHP) Johanna Favrot Fund for Historic Preservation;
 - (2) A \$5,000 grant from the State of California, Office of Historic Preservation (OHP) for Certified Local Governments;

Resolution No. 72981 adopted.

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:
 - (1) Increase the revenue estimate from the State of California by \$5,000.
 - (2) Increase the estimate for Other Revenue in the General Fund by \$5,000.
 - (3) Establish a City-wide "Japantown Phase II Historic Resources Survey" appropriation to Planning, Building and Code Enforcement in the amount of \$10,000.

CEQA: Not a Project. (Planning, Building and Code Enforcement/City Manager's Office)

Ordinance No. 27617 adopted.

Resolution No. 72982 adopted.

2. CONSENT CALENDAR

2.13 Approval of action related to the annexation of Evergreen No. 190.

Recommendation: Adoption of a resolution initiating proceedings and setting December 13, 2005 at 1:30 p.m. for council consideration on the reorganization of territory designated as Evergreen No. 190 which involves the annexation to the City of San José of 4.10 acres of land more or less, located on the east side of Yerba Buena Road, approximately 1870 feet of Verona Road, and adjacent to the City of San José annexations Evergreen Nos. 151 and 152 and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services. CEQA: Resolution No. 63179, File No. PDC98-035. Council District 8. (Planning, Building and Code Enforcement)

Resolution No. 72983 adopted.

2.14 Approval of an agreement for the Police to provide horse and rider training for the Police Horse Mounted Unit.

Recommendation:

- (a) Approval of an agreement with Virginia K. Gerbino to provide horse and rider training for the Police Horse Mounted Unit for the period of October 1, 2005 through September 30, 2006, inclusive, for an amount not to exceed \$39,500; and

Approved.

- (b) Adopt a resolution authorizing the City Manager to execute five one-year options to renew without further Council action other than the appropriation of funds.

CEQA: Not a Project. (Police)

Resolution No. 72984 adopted.

2.15 Approval of a Purchase and Sale Agreement for the proposed Roosevelt Park Expansion Project.

Recommendation: Approval of the Purchase and Sale Agreement with Jose and Rita Velasco for the purchase of two parcels located at 961 East Santa Clara Street in the area of the proposed Roosevelt Park Expansion Project, in the purchase amount of \$800,000, and adoption of a resolution authorizing the Director of Public Works to accept the deed, to settle any relocation claims arising from the City's purchase of these properties, and to execute all documents. CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works)

Purchase approved.

Resolution No. 72989 adopted.

2. CONSENT CALENDAR

2.16 Approval of an agreement and actions for the Fuller Avenue Park Project.

Recommendation:

- (a) Approval of a month-to-month lease agreement with the Peninsula Corridor Joint Powers Board (JPB) for approximately 29,057 square feet of land to create a landscape buffer between Fuller Avenue Park and the JPB right-of way and allow the City to install and maintain a 6 foot tall chain link fence on a portion of the leased property.

Approved.

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-wide Redevelopment Fund):

- (1) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Fuller Avenue Park Project (PSM 356#2) in the amount of \$66,000.

- (2) Increase the estimate for Earned Revenue by \$66,000.

Ordinance No. 27618 adopted.

Resolution No. 72985 adopted.

- (c) Approval of an increase in the construction contingency in the amount of \$60,000, including the cost of the change order for fence installation, and an increase of the project delivery costs in the amount of \$6,000.

CEQA: Exempt, PP04-03-089. Council District 6. SNI: Greater Gardner. (Public Works/ Parks, Recreation and Neighborhood Services/City Manager's Office)

Approved.

2.17 Approval of an appointment to the Downtown Parking Board.

Recommendation: Approval of an appointment to the Downtown Parking Board.

(Mayor)

The appointment of Diana Beechie was approved.

2.18 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the period September 16 through October 15, 2005.

Recommendation: Acceptance of the Office of the City Auditor's Report of Activities and Findings for the period September 16 through October 15, 2005. (City Auditor)

Report Accepted.

2.19 Approval of Mayor Gonzales' travel to Chicago, Illinois.

Recommendation: Approval of Mayor Gonzales' travel to Chicago, Illinois for the meeting of the CEOs for Cities on December 1 - 2, 2005. Funding Source: Mayor's Office. (Mayor)

Approved.

2. CONSENT CALENDAR

- 2.20 Approval of the proposed designation of Betsy Shotwell, Director of Intergovernmental Relations, as the voting delegate at the December 10, 2005 Annual Business Meeting for the National League of Cities.**

Recommendation: Approval of the proposed designation of Betsy Shotwell, Director of Intergovernmental Relations, as the voting delegate at the December 10, 2005 Annual Business Meeting for the National League of Cities. (City Clerk/City Manager's Office)
Approved.

3. STRATEGIC SUPPORT SERVICES

- 3.1 Report of the Study Session**
Mayor Gonzales, Chair
No Report.

- 3.2 Report of the Rules Committee - November 16, 2005**
Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review November 29, 2005 Draft Agenda
The Committee recommended approval of the November 29, 2005 City Council Agenda with nine additions.
 - (2) Add New Items to November 22, 2005 Agenda
 - (3) List of Reports Outstanding
There were none. The Council Meeting for November 22, 2005 was cancelled.
- (c) Legislative Update
 - (1) State
There was no report.
 - (2) Federal
There was no report.
- (d) Meeting Schedules
 - (1) Proposed 2006-2007 City Budget Calendar
The Committee recommended the adoption of the proposed 2006-2007 City Budget Calendar.
 - (2) Council Meeting Schedule January – July 2006
The Committee recommended approval of the City Council Meeting Schedule for the period January through July 2006.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - November 16, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

- (e) The Public Record

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees

There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

There were none.

- (h) Open Forum

Bill Chew suggested that exercise programs for City employees be reinstated to ensure a healthy, productive work force.

- (i) Adjournment

The meeting was adjourned at 2:11 p.m.

Report of the Rules Committee - November 9, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (b) City Council

- (1) Review November 22, 2005 Council Agenda

The Council Meeting was cancelled.

- (2) Add New Items to November 15, 2005 Agenda

The Committee recommended four additions to the November 15, 2005 City Council Agenda.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update

- (1) State

The Committee directed Staff to review pending initiatives for next year's ballot that may impact the City of San José as soon as possible to determine if the City should take any positions on the petitions for new initiatives. The Committee noted and filed the Statewide and Santa Clara County Returns.

- (2) Federal

There was no report.

- (d) Meeting Schedules

There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - November 9, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(1) Small Business Development Commission

The Committee recommended the reappointment of incumbents Daisy Chu, Jordan Dancer and Joyce Puopolo to terms ending December 31, 2005.

(2) Request for Leave of Absence by Arts Commissioner

The Committee recommended approval of a one month leave of absence for Arts Commissioner Jess Moreles, for a period November 1 through 29, 2005.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Addition to Auditor's Work Plan – Review of HP Pavilion Arena Fees

The Committee recommended that the review of the HP Pavilion records to verify the appropriate payment of Arena fees to the City of San José be added to the Auditor's Work Plan.

(2) Workload Assessment Report to Review Ordinances for Illegal Tree Removal and to Evaluate the Feasibility of Increasing Fines and Other Mitigations for Illegal Tree Removals.

The Committee recommended acceptance of the Workload Assessment Report and the alternative process in which Staff would perform a limited level of case and date review to assess potential trends and reasons for illegal tree removals and to determine if increasing fines and mitigation levels would act as an additional disincentive for property owners to violate the tree removal ordinances.

(h) Open Forum

There were none presented.

(i) Adjournment

The meeting was adjourned at 2:11 p.m.

The Rules Committee Reports and the Actions of November 9, 2005 and November 16, 2005, were accepted.

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

- (a) Consent Calendar
 - (1) FY 2004-06 First Quarterly Debt. Report and Proposed Amendments to the Multifamily Housing Revenue Bond Policy
See Item 3.7 for Council action to be taken.
 - (2) Quarterly Investment Report
 - (b) Update on Northside Community Center Operations
 - (1) Provide Direction as to Preferred Terms for Funding Certain Operating Expenses for Filipino-American Senior Opportunities Development Council ("Fil-Am SODC") in a amount not to exceed \$58,354
 - (2) Accept the Status Report Related to Documentation Regarding Operations at JTS Northside Community Center than has been Requested by the City, but not yet Received from the Fil-Am SODC.
See Item 3.8 for Council action to be taken.
 - (c) Discussion on Major IT Projects
 - (d) Request for Proposal Procedures and Other Procurement Reforms (Follow-up from September 15)
See Item 3.9 for Council action to be taken.
 - (e) Oral Petitions
 - (f) Adjournment
- Deferred to 12/6/05.**

3.4 Council appointments to various Boards and Commissions.

Recommendation: Review employee election results and make appointments to the following Boards and Commissions:

- (a) Federated Retirement Board: 1 employee/member to a four year term ending 11/30/09.
- (b) Police & Fire Retirement Board: 1 Police Department employee/member to a four year term ending 11/30/09.
- (c) Civil Service Commission: 1 employee representative to a four year term ending 12/1/09.

(City Clerk)

Tim Callahan was appointed to the Federated Retirement Board. Bret Muncy was appointed to the Police and Fire Retirement Board. Bill Brill was appointed to the Civil Service Commission.

3. STRATEGIC SUPPORT SERVICES

3.5 Approval of various actions related to maintenance services for the Integrated Utility Billing System.

Recommendation:

- (a) Adoption of a resolution authorizing the Director of Finance to:
 - (1) Execute Schedule 4 to the Software License and Services Agreement between the City of San José and Oracle USA for the purchase of additional software modules and maintenance services in support of the Consolidated Utility Billing System and Employee Services/Payroll Human Capital Management Upgrade Projects, in an amount not to exceed \$419,901 for the first year.
 - (2) Execute Schedule 5 to the Software License and Services Agreement between the City of San José and Oracle USA for the purchase of additional software modules and maintenance services in support of the Employee Services/Payroll Human Capital Management Upgrade Project, in an amount not to exceed \$148,856 for the first year.
 - (3) Exercise the renewal of support services for the additional software modules included in the agreement for years two through ten contingent upon Council appropriation of funding each year.

Resolution No. 72986 adopted.

- (b) Adoption of the following 2005-2006 appropriation ordinance and funding Source resolution amendments:
 - (1) Increase the estimate for Franchise Fees in the General Fund in the amount of \$264,000.
 - (2) Increase the Payroll/Human Resources Project appropriation in the Finance Department in the General Fund in the amount of \$121,194.
 - (3) Decrease the Non-Personal/Equipment appropriation in the Information Technology Department in the General Fund in the amount of \$101,194.
 - (4) Increase the CUSP Project appropriation in the Finance Department in the General Fund in the amount of \$244,000.

CEQA: Not a Project. (Finance/Employee Services/City Manager's Office)

Ordinance No. 27619 adopted.

Resolution No. 72987 adopted.

Staff was directed to advise Council of any concerns or problems as they arise.

3.6 Council Discussion of the Historical Council Display.

Recommendation: Direct staff to display the photos and plaques of former Council Members and Mayors in the New City Hall. (Reed)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.7 Approval of Proposed Amendments to the Multifamily Housing Debt Policy.

Recommendation: Approval of the following changes to the City's Policy for the Issuance of Multifamily Housing Revenue Bonds:

- (a) Addition of a new Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing fee of \$5,000 to be paid by project sponsors of multifamily housing projects located in San José in circumstances where the City is not the bond issuer; and
- (b) Amendment of the City's Annual Monitoring Fee policy by permitting a one-time reduction in the annual monitoring fee for nonprofit and governmental agency developers under certain circumstances following project completion and lease-up, subject to an annual minimum monitoring fee of \$7,500.

[Making Government Work Better Committee referral 11/17/05 – Item 3.3(a)]

Deferred to 12/6/05.

3.8 Approval of various actions related to the Northside Community Center Operations.

Recommendation:

- (a) Acceptance of a follow-up report from the City Auditor summarizing the June 28, 2005 audit report, follow-up memorandums presented to the Making Government Work Better Committee, work completed to date, and outstanding items still remaining;
- (b) Acceptance of a Report from the Director of Parks, Recreation and Neighborhood Services summarizing post-audit actions taken by the Department with respect to Fil-Am and outstanding items still remaining;
- (c) Consideration of two proposed options for alternative operation of the JTS Northside Community Center and the terms of a proposed grant agreement to Fil-Am.

(Parks, Recreation, and Neighborhood Services)

[Making Government Work Better Committee referral 11/17/05 – Item 3.3(b)]

Deferred to 12/6/05.

3.9 Approval of Actions related to the City's RFP Procedures and Procurement Reforms.

Recommendation:

- (a) Approval of the Making Government Work Better Committee reports dated September 8 and November 3 on modifications to the City's Request for Proposal Procedures and other Procurement Reforms.
- (b) Direction to the City Attorney and City Manager to take the necessary actions to implement recommendations outlined in these reports.

[Making Government Work Better Committee referral 11/17/05 – Item 3.3(d)]

Deferred to 12/6/05.

3. STRATEGIC SUPPORT SERVICES

3.10 Approval of the Statement of Policy and City Council Questions for the Environmental Services Director.

Recommendation: Adoption of the Statement of Policy and City Council Questions related to the selection of a new Environmental Services Director as described in this memo, in compliance with City Charter Section 411.1. (City Manager's Office)
(Rules-in-lieu referral 11/23/05)

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

No Report.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

No Report.

4.3 Approval of actions for the Hotel Business Improvement District.

Recommendation: Report on the establishment of the Hotel Business Improvement District and acceptance of public comment on the establishment of the Hotel Business Improvement District. CEQA: Exempt, PP05-203. (Economic Development)

Report Accepted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – November 10, 2005 Council Member Yeager, Chair

(a) Mayor's Gang Prevention Task Force Policy Session
The Committee accepted the report.

(b) Discussion of Citywide School Safety Programs and Gaps
The Committee accepted the report.

(c) Input on Implementation of San José's High School Initiative
The Committee accepted the report. Staff will return to the All Children Achieve Committee in February 2006 to present an update.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – November 10, 2005 (Cont'd.) Council Member Yeager, Chair

- (d) Discuss City's Role in Advocating for Small Learning Community Schools
Dropped.
- (e) Oral Petitions
None were presented.
- (f) Adjournment
The meeting was adjourned at 3:07 p.m.

The All Children Achieve Committee Report and the Actions of November 10, 2005 were accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair **No Report.**

6.2 Acceptance of staff's recommendation on the Santa Clara Valley Transportation Authority Proposed Measure A Expenditure Plan.

Recommendation: Acceptance of staff recommendations on proposed Regional Transportation Expenditure Plan advocating that the Santa Clara Valley Transportation Authority Board consider the following items at their December 1, 2005 Board meeting:

- (a) Allocate funding for the "Airport People Mover Connection to BART/Caltrain" Project in the Initial Program in the amount of \$248 million by pursuing the following:
 - (1) Drop "Interim Airport Shuttle" Project (\$41 million).
 - (2) Reduce the period of funding in the Initial Program from 30 years to 10 years for the "Pavement/Expressway/Bike/Pedestrian" program, retaining funding levels at \$15 million per year for a total of \$150 million. Include the remaining 20 years in the Completion Program (\$221 million). VTA should develop a strategy to secure funding from regional, state, and federal sources to finance the Completion Program for long-term local pavement maintenance needs, expressway improvements and enhanced bicycle/pedestrian facilities.
- (b) Continue to pursue accelerated development of the BART to Silicon Valley project to preserve options for completion earlier than 2018 if Program cost savings or further project cost savings are identified and/or new revenues are secured such as through joint development efforts, or increased Federal or State grants.

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Acceptance of staff's recommendation on the Santa Clara Valley Transportation Authority Proposed Measure A Expenditure Plan (Cont'd.)

- (c) Allow the environmental review process for the "Santa Clara/Alum Rock Transit Corridor" Project to proceed so as to determine the preferred transit mode and then pursue amending the VTA Expenditure Plan to fully fund the approved project, as needed. Retain \$85 million in the Initial Program.
- (d) Pursue accelerated development of the "Capitol LRT Extension to Eastridge" Project to preserve options for project delivery earlier than 2019 if Program cost savings or project cost savings are identified and/or new revenues secured.
- (e) Accept placement of the "Capitol LRT Extension from Eastridge to Neiman" Project in Completion Program (for future funding) with the condition that connecting bus service be provided from development in the Neiman area to the Eastridge Transit Center.
- (f) Pursue funding of Caltrain electrification as part of the California High Speed Rail Project to save costs for the San Francisco to San José and the San José to Gilroy segments.
- (g) Support the VTA proposal for an annual review of the Expenditure Plan allowing flexibility to strategically respond to changing circumstances, needs and priorities.
- (h) Continue support of VTA efforts to develop a Transit Expansion Policy that links transportation investment with the VTA Board's adopted evaluation criteria and supportive local land use development policies.
- (i) That the VTA Board develop a "reward policy" for local agencies that use local and/or private development funds to implement regional transportation projects and thereby granting priority for such agencies for other regional funding allocations. This would apply in both the transit and highway programs.

CEQA: Not a Project. (Transportation)

(Rules Committee referral 10/19/05)

(Deferred from 11/1/05 – Item 6.4 and 11/15/05 Item 6.6)

Approved, with the following additions, modifications and/or revisions:

- (1) That the accelerated construction of BART before 2018 but no sooner than 2015 be the first funding priority if and when: (a) Measure A and/or revenues from any 2006 tax measure exceed projections; (b) new revenue sources are identified; or (c) there are Measure A cost savings.**
- (2) Move the People Mover into the initial program, even if it cannot be constructed by 2018. Once in the initial program, Council to authorize the City Staff to work with the VTA to explore the possibility of using the City's bonding capacity, or possibly other resources, to accelerate the construction schedule on the condition that VTA will re-pay the advanced amount (and interest) within a time frame acceptable to the City. The Staff recommendation to use pavement management funds to construction the People Mover was not approved.**

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Acceptance of staff's recommendation on the Santa Clara Valley Transportation Authority Proposed Measure A Expenditure Plan (Cont'd.)

- (3) After the environmental review and community input processes for Alum Rock-Santa Clara corridor have been completed, amend the expenditure plan before the ¼-cent 2006 tax measure is placed before the voters to include the fully-funded preferred transit mode for this corridor in the initial program with a concurrent VTA commitment to construct the preferred mode consistent with the construction schedule for BART.**
- (4) Advance final design of the Capital lightrail to Eastridge project to be completed by 2008 to have the project shelf ready if savings or additional funds become available to accelerate its construction *earlier than 2012*.**
- (5) If San Francisco and San Mateo Counties have not secured their shares of the Caltrain electrification project by 2016, reallocate this funding in the expenditure plan to other Measure A projects in the region ready for construction, except BART.**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of policy direction for the Request for Proposals for Recycle Plus Integrated Waste Management Services.

Recommendation:

- (a) Approval of the following recommendations on policy direction for the Request for Proposals for Recycle Plus integrated waste management services, to be issued in the event that the extension to one or more of the Recycle Plus contractors is not approved by Council or if one or more of the contractors decide not to accept the extension:**
 - (1) Approval of a six-year contract term from July 1, 2007 to June 30, 2013.**
 - (2) Approval to allow the use of used collection vehicles in good condition.**
 - (3) Approval to eliminate the Alternate Fuel Premium Payment.**
 - (4) Approval to maintain the current days of collection.**
 - (5) Approval to require that prevailing wages be paid under the new agreements including MRF workers.**
 - (6) Approval to maintain the employee retention requirements of the existing contracts.**
 - (7) Approval to maintain the labor peace requirements of the existing contracts.**

Approved.

Noes: LeZotte.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of policy direction for the Request for Proposals for Recycle Plus Integrated Waste Management Services (Cont'd.)

- (b) Direction to staff to return to Council for final approval and issuance of the Request for Proposals for Recycle Plus integrated waste management services if needed.

CEQA: Mitigated Negative Declaration, PP92-05-98. (Environmental Services

Approved.

Noes: LeZotte.

7.2 Approval to award a contract for the Alma Storm Drain Improvement Project.

Recommendation:

- (a) Report on bids and award of contract for the Alma Storm Drain Improvement Project to the low bidder, Stoloski & Gonzalez, Inc., in the amount of \$1,118,658.20, and approval of a contingency in the amount of \$120,000.

Approved.

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

- (1) Establish an appropriation to the Department of Public Works for the SNI WA 03: Alma Storm Drain Improvement Project (PSM #402) in the amount of \$625,000.
 - (2) Increase the estimate for Earned Revenue by \$625,000.

CEQA: Exempt, PP05-129. Council District 7. SNI: Washington. (Public Works/City Manager's Office)

Ordinance No. 27620 adopted.

Resolution No. 72988 adopted.

8. PUBLIC SAFETY SERVICES

8.1 Approval of a proposed site for the Driver Safety Training Facility.

Recommendation:

- (a) Approval of a site designated as the proposed Driver Training site at the Water Pollution Control Plant (WPCP) buffer-lands as the preferred location for a proposed Driver Safety Training Facility; and
- (b) Direction to staff to develop a Request for Proposal to solicit consulting firms to conduct an Environmental Review of the proposed project and return to City Council with a contract for award if needed; and
- (c) Direction to staff to work with WPCP member agencies to develop a long-term lease agreement for the use of the land at the preferred location, including business terms for operation and use of the facility and return to City Council with a contract for award if needed.

CEQA: Not a Project. (Police/Fire/Environmental Services)

Approved.

8.2 Acceptance of the Independent Police Auditor's 2005-Mid-Year Report and Police Department response.

Recommendation:

- (a)
 - (1) Approval of policy recommendation to provide homicide reports to the Independent Police Auditor (IPA) for officer-involved shooting and death-in-custody cases
 - (2) Approval of policy recommendations that San José Police Department develop taser policy to be included in the use of force policy in the San José Police Department Duty Manual.

(Independent Police Auditor)

The Independent Police Auditor's 2005 Mid Year Report was accepted.

The policy recommendations were not approved.

- (b) Acceptance of the Police Department response to the IPA 2005-Mid-Year Report recommendations. (Police)

Response accepted.

The City Attorney, Independent Police Auditor and Police Chief were directed to confer, develop and return to Council no later than January 10, 2006 with a recommendation for codifying or otherwise adopting by reference the San Jose Police Department Taser Use Guidelines.

9 JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session action(s) of November 29, 2005:

- A. Pending Litigation – Settlement Authorized:**

Case Name: **Estate of Cau Bich Tran, et al. v. City of San José, et al.**

Substance of Settlement: **Approval of settlement. City to pay the total sum of \$1,825,000 in full settlement of the lawsuit.**

Council Vote: Ayes: **Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.**

Noes:	None.
Disqualified:	None.
Absent:	None.

- **Notice of City Engineer’s Pending Decision on Final Maps**
None.

- **Open Forum**

- (1) Kevin Fanning voiced his personal opinions on skateparks.**
- (2) Daniel McCall voiced his personal viewpoints.**

- **Adjournment**

The Council of the City of San José was adjourned at 6:03 p.m. in memory of Augustine (Gus) Rivas, Maintenance Worker in the Department of Transportation and Avelino “Lino” Legaspi, a San José activist in the West Evergreen Strong Neighborhoods Initiative; in memory of Lawrence Taylor, employee of the Redevelopment Agency for 15 years; and Manuel Chacon, a long time resident of San José and President of the Center for Employment Training, a national non-profit vocational school.